IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.30 OF 2007

IN

WRIT PETITION NO.820 OF 2006

Atiquoor Rehman Niyaz Shah & Ors. .. Petitioners.

Versus

The State of Maharashtra & Ors. .. Respondents.

Mr.S.N.Kore i/b. Mr.V.K.Singh for petitioners.

Mr.Y.R.Reddy for respondent No.2.

Mr.G.W.Mattows, A.G.P. for respondent No.1.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 17TH JULY, 2007.

P.C.:

1. Writ Petition No.820 of 2006 which was disposed of by this Court's order dated 17th April, 2006 directed as under :-

> "It appears that the Petitioners have applied to Respondent No.2 to decide their eligibility. That application is still pending. Considering the

above we direct MHADA to dispose of the Petitioners pending application for eligibility within a period of 8 weeks from today. With the above observation petition stands disposed of."

2. The original petitioners to this petition have filed the present contempt petition alleging that the authorities have disobeyed the order passed by this Court wilfully and deliberately inasmuch as the issue of their eligibility was not decided and no order was communicated to them with regard to their representation.

3. On 3rd July, 2007, I had recorded the statement of Mr.Mattows appearing for the first respondent stating that the issue of eligibility was to be decided by Maharashtra Housing and Area Development Authority and the said Authority was neither a party to the writ petition nor the present contempt petition. However, that issue has to be decided by MHADA. He sought time to verify this aspect. Now an affidavit is filed by the Dy.Engineer, Slum (East), Mumbai Slum Improvement Board, who is holding additional charge of Assistant Land Manager, Kurla, M.H.A.D.B., which is original unit of M.H.A.D.A.

4. Paragraph 2 of the affidavit reads thus :-

> "At the outset, I tender my unconditional apology to this Hon'ble Court inasmuch as there was a delay of about 7 weeks in complying with the order dated 17th April, 2006 passed by this Hon'ble Court in the above writ petition. By virtue of the said order, MHADA was directed to dispose of the pending application for eligibility within a period of 8 weeks from the date of the said order. I say that the said order had to be complied with by MHADA on or before 12th June, 2006. However, the order/communication was passed on 29th July, 2006."

5. Mr.Mattows states that the issue of eligibility is to be decided by this communication and that communication has been forwarded already to the Slum Rehabilitation Authority.

6. Both sides do not dispute that the issue of eligibility stands decided by the communication, copies of which are annexed to the affidavit in reply.

7. Mr.Kore appearing for the petitioners states that the petitioners would adopt appropriate proceedings to

challenge the order passed by M.H.A.D.A. and duly forwarded to S.R.A.

8. Mr.Y.G.Reddy appearing for the SRA states that there is remedy of an appeal u/s.35 of the Slum Act, 1971 to the Chief Executive Officer of SRA and if the petitioners file an appeal to the said authority within a period of four weeks from today, the said authority to decide the appeal on merits and in accordance with law without in any manner raising the plea of limitation. Mr.Kore states that such an appeal would be filed within the time directed by this Court.

9. Needless to state that all contentions, on merits, of parties are expressly kept open and the Appellate Authority to hear the petitioners, in case the appeal is filed and pass appropriate orders in accordance with law and communicate the same to the petitioners expeditiously.

10. Contempt Petition stands disposed of in the light of the apology tendered on account of the genuine difficulty faced by M.H.A.D.A. in deciding the application.

(S.C.Dharmadhikari, J.)